

# FISCAL NOTE

**Bill #:** HB0309

**Title:** Procedure for legislative request of A.G. opinion and 10<sup>th</sup> amendment defense

**Primary Sponsor:** Brad Molnar

**Status:** As introduced

Sponsor signature	Date	Dave Lewis, Budget Director	Date
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## Fiscal Summary

	<b><u>FY2000 Difference</u></b>	<b><u>FY2001 Difference</u></b>
<b>Expenditures:</b>		
General Fund	\$28,576	\$25,826
<b>Revenue:</b>	\$0	\$0
<b>Net Impact on General Fund Balance:</b>	<b>(\$28,576)</b>	<b>(\$25,826)</b>

<b><u>Yes</u></b>	<b><u>No</u></b>		<b><u>Yes</u></b>	<b><u>No</u></b>	
	X	Significant Local Gov. Impact		X	Technical Concerns
	X	Included in the Executive Budget		X	Significant Long-Term Impacts

## Fiscal Analysis

### ASSUMPTIONS:

1. Section 2 of the bill will have no fiscal impact to the Department of Justice (DOJ) since it is already the Attorney General's (A.G.) practice to seek out parties on both sides of a ballot issue for comments and advice regarding the proposed versions of the ballot statements.
2. The A.G. would be required to initiate litigation against the federal government on the ground that a federal law violates the state's 10<sup>th</sup> amendment rights whenever a majority of the Legislature votes to commence such litigation. A lawsuit would be required regardless of the legal merits of the state's position.
3. It is assumed that during the 2001 biennium the Legislature would direct that one lawsuit be filed. The lawsuit would be handled by existing staff of the DOJ, Legal Services Division (LSD).

4. Depending on the complexity of the issues in the case, at least one expert witness would be required for the state, and the state would incur regular costs of litigation, including expenses for deposition of the state's witnesses, as well as depositions of the defendant's experts and other witnesses. While it is impossible to predict costs with certainty, costs for major constitutional litigation average in the tens of thousands of dollars.
5. HB2 will include a biennial appropriation to DOJ for major litigation in the amount of \$500,000. Depending on the costs of other litigation being handled by the department, the litigation costs may or may not be covered by the major litigation budget.
6. Under current law, only the Legislature or either house of the Legislature may request an A.G. opinion. Under HB309, any 15 legislators could request such an opinion.
7. The bill would generate four to six additional opinion requests per year.
8. The A.G. is required by law to provide an opinion within 90 days of the request unless certifying that additional time is required (2-15-501); because of the workload of the LSD and competing court deadlines, opinions usually require four to six months to produce.
9. Opinion requests are handled by lawyers in the Executive Services and Appellate Services Bureaus, which have experienced a significant growth in caseloads over the past five to eight years without a commensurate growth in staff. Consequently, the LSD could not absorb the additional workload required by the bill.
10. The LSD would require a 0.50 FTE grade 18 lawyer to fulfill the additional responsibilities required by HB309. Cost of the attorney is \$24,200 per year (grade 18 salary of 36,137/2 = 18,069 + 16% benefits and health insurance of \$3,240 = 24,200).

Operating costs are \$4,376 in FY 2000 and \$1,626 in FY 2001. One time costs for new employee office package (\$1,000) and new personal computer (\$1,750) will be incurred in FY 2000 for a total cost of \$2,750. On going costs are supplies (\$300), computer network charges (\$810), and long distance/phone equipment charges of \$516 – total of \$1,626 a year.

FISCAL IMPACT:

	FY2000 <u>Difference</u>	FY2001 <u>Difference</u>
FTE	0.50	0.50
<u>Expenditures:</u>		
Personal Services	\$24,200	\$24,200
Operating Expenses	<u>4,376</u>	<u>1,626</u>
TOTAL	\$28,576	\$25,826
<u>Funding:</u>		
General Fund (01)	\$28,576	\$25,826
TOTAL		
<u>Revenues:</u>		
	\$0	\$0
<u>Net Impact to Fund Balance (Revenue minus Expenditure):</u>		
General Fund (01)	(\$28,576)	(\$25,826)

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